

No. 10472-ASO III-Lab-68/29025.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of M/s Eastern Electronics, Faridabad :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
CHANDIGARH

REFERENCE NO. 89 OF 1967

between

THE WORKMEN AND THE MANAGEMENT OF M/S EASTERN ELECTRONICS,
FARIDABAD.

Present :

Shri D. D. Verma, for the management.

Shri Satish Loomba, for the workmen.

AWARD

An industrial dispute having come into existence between the workmen and the management of M/s Eastern Electronics, Faridabad, over the following item, the same was referred for adjudication to this Tribunal under clause (d) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947,—vide their notification No. 439-SF-III-Lab-67/ 28666, dated 25th September, 1967:—

Whether the action of the management in reducing the quantum of bonus from 20% to 4% for the year ending 31st December, 1966 was justified and in order? If not, to what relief are the workers entitled?

Usual notices were issued to the parties and in response to the same the workmen filed their statement of claims and the management filed their written statement to the same. The pleadings of the parties gave rise to 4 issues which are as under and which were framed by me on 14th November, 1967 :—

1. Is the reference invalid for reasons given in paragraph 1 and 2 of the preliminary objections in the written statement of the management?
2. Are the demand notice and statement of claims not properly signed? If so, what is its effect on the present management.
3. Have Bodh Raj and Ram Saran no locus standi to raise the dispute in question? If so, what is its effect on the present reference?
4. Whether the action of the management in reducing the quantum of bonus from 20% to 4% for the year ending 31st December, 1966 was justified and in order? If not, to what relief are the workers entitled?

Parties were given opportunity to lead their evidence in respect of the said issues and on conclusion of the same their representatives also addressed their arguments to me. My findings in respect of the aforesaid issues are as under :—

Issue No. 4—It is in evidence that there was at one time some labour trouble in the concern in question and some of the workmen went on hunger strike. The trade union of the workmen of this concern namely Eastern Electronics Workers Union made a demand from the management in respect of bonus. It appears that at the time of the said demand balance sheet of the concern had not yet been prepared but somehow the concern expected huge profits. The management started distributing bonus to the workmen at the rate of 20% of wage of each of them and this distribution was made to about 19 workmen. Before it could be made to others some demands with regard to the arrears of sale tax arose and the concern in question received notices in this respect from the sale tax department. Meanwhile the balance sheet was also ready and the concern found that it was not possible to pay bonus to the workmen except to the extent of 4%. They declared bonus at the rate of 4% and asked the 19 workmen who had already been paid excess bonus at the rate of 20% to refund the excess amount. An industrial dispute thus arose between the parties and the trade union of the concern gave a demand notice in respect of the same. The demand made by the workmen was that bonus could not be reduced from 20% to 4%.

On behalf of the management it has been contended before me that the mere fact that the management at one time had started distributing bonus at the rate of 20% did not make it incumbent on them to pay the said amount and that they are under no liability to pay bonus except to the extent of its liability imposed on them by the provisions of the Payment of Bonus Act, 1965. This contention is not seriously challenged by the workmen and even otherwise the contention is perfectly sound. All that the workmen are entitled to is the payment of bonus in accordance with the provisions of the payment of Bonus Act and even if the management at one time started making some payment at a rate higher than what was due they cannot be compelled to continue to make the same. The management have produced their balance sheet for the year in question and the correctness of the same has not been assailed. Both the parties have in fact filed calculation charts for the allocable surplus and both of them have based the same on the figures in the balance sheet. Controversy between the parties centres round three items which are :—

1. The amount of development rebate which may be allowed to be deducted.
2. The amount of annuity deposit paid by the concern during the year in question, and
3. The amount of capital on which interest at the rate of 8.05% is to be allowed.

Some of the arrears of sale tax for the previous year had been paid by the concern during the year in question but it was admitted before me that the said amount of sale tax could not be deducted in the calculation chart for the allocable surplus in respect of the bonus for the present year. The management, however, contended that an amount of Rs 31,124.00 out of the said amount of sale tax paid in the year related to the first quarter of 1966 and this contention is supported by the affidavit of Shri Balasundram Proprietor of the concern. In fact Shri Balasundram deposed three affidavits on 11th September, 1968 and for identification I have marked them as A, B. & C. The aforesaid point is deposed to by him in para 3 of the affidavit 'A' dated 11th September, 1968. It is not denied that the accounting year of the concern is the calendar year and that the amount of Rs 31,124.00 if paid as the sale tax in respect of the first quarter of 1966 (which is the year in question) must be allowed as a business expense. The point is in my opinion fully proved and the amount aforesaid must, therefore, be allowed to be deducted out of the profits shown in the balance sheet. With regard to the three items in respect of which controversy centres round, my findings are as below :—

1. *Development Rebate*.—The amount of development rebate which the workmen have mentioned in their computation chart is Rs 21,635.00 while the amount of the said rebate as mentioned in the calculation chart filed by the management is Rs 43,400.00. The contention of the workmen is that the development rebate should be calculated at the rate of 20% only and they have calculated the same at the said rate. The contention of the management on the other hand is that it should be allowed at the rate of 35% and they have calculated at the said rate. Section 33-B of the Indian Income Tax Act gives the rate of 35% for the said calculations and I, therefore, find that the development rebate as calculated in the chart of the management is correct.

2. *Annuity Deposit*.—A sum of Rs 69,800.00 was paid by the concern in question as annuity deposit during the year in question. This sum is clearly allowable under the law, — vide item No. 5 in the third schedule to the Payment of Bonus Act, where it was expressly said :—

"Provided that where such employer is a person to whom Chapter XXII-A of the Income Tax Act applies, the annuity deposit payable by him under the provisions of that Chapter during the accounting year shall also be deducted".

The item has, therefore, been validly claimed as a deduction by the management.

3. *Return on Capital*.—In their balance sheet, the management showed that their capital amounted to Rs 92,529.76. In their chart they have calculated interest at the rate of 8.05% on a sum of Rs 13,296,89.38 which includes the aforesaid amount of the capital plus the amount spent on fixed assets namely buildings, machinery etc. It is contended by the management that the concern being in the ownership of one man, the Capital of the concern must be taken to be not merely the amount used for working the concern but also the amount spent on the purchase of machinery and erection of building etc. My attention was drawn by the management to the recommendation of the Bonus Commission in which they had indicated that the value of the fixed assets would form a part of the capital. I am inclined to agree with the view of the management that the capital means the entire outlay which a person has made in the concern in question, and this must also include the amount spent on the purchase of machinery and erection of buildings etc.

It is not denied by the workmen that if the three controversial items are allowed or even if the amount of the sale tax for the first quarter of 1966 and first two controversial figures are allowed to the management as deductions the amount of bonus will come down to 4% or less. In the circumstances I do not find any force in the demand of the workmen that they should be paid bonus at the rate higher than the declared amount i.e. 4% of the total wages of each of the workmen. The demand of the workmen is accordingly dismissed.

Dated 13th November, 1968.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana, Chandigarh.

No. 1233, dated Chandigarh, the 18th November, 1968.

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,

Presiding Officer,
Industrial Tribunal, Haryana, Chandigarh.

No. 10471-ASOIII-Lab-68/29105.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of M/s Tourist Co-operative Transport Society, Ltd., Ambala City :—

BEFORE SHRI K. L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, CHANDIGARH

REFERENCE NO. 53 OF 1968

between

THE WORKMEN AND THE MANAGEMENT OF M/S TOURIST CO-OPERATIVE TRANSPORT SOCIETY, LTD., AMBALA CITY

Present

Shri Ishar Singh, for the management.
Nemo, for the workmen.

AWARD

An industrial dispute having come into existence between the workmen and the management of M/s Tourist Cooperative Transport Society, Ltd., Ambala City, over the following item, the same was referred for adjudication to this tribunal under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947, —vide Haryana Government notification No. 1D/UMB/78-B/68/25164, dated 7th October, 1968 :—

“Whether the existing rates of D. A. of the following categories of the workmen should be increased? If so, with what details and from which date?

- (i) Chawkidars
- (ii) Tyreman.
- (iii) Lorry washer.
- (iv) Checkers.
- (v) Drivers.
- (vi) Conductors.
- (vii) Booking Clerks.
- (viii) Blacksmith.
- (ix) Workshop cleaners.
- (x) Clerks Both in office and workshop.
- (xi) Accountant and Cashier.
- (xii) Hawkers”.

Usual notices were issued to the parties and in response to the same the workmen filed their statement of claims and the management filed their written statement to the same. The pleadings of the parties gave rise to one issue only which is precisely the same as the item of dispute. Parties were directed to produce their evidence on the said issue and the case was fixed for to-day for this purpose. Although the Secretary of the respondent concern is present, no one is present for the workmen. The onus of proof lies on the workmen and as they have led no evidence to prove the issue and have not even cared to attend the court, their demand is dismissed for want of proof.

No order as to costs.

The 14th November, 1968.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 1235, dated Chandigarh, the 19th November, 1968

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 10473-ASOIII-Lab-68/29114.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of M/s East India Cotton Manufacturing Co., Private Ltd., Faridabad.

BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, CHANDIGARH

Reference No. 11 of 1968

between

THE WORKMEN AND THE MANAGEMENT OF M/S EAST INDIA COTTON MANUFACTURING
CO., PRIVATE LTD., FARIDABAD

Present.

Shri Jaswant Singh, for the management.

Shri Satish Loomba, for the workmen.

AWARD

An industrial dispute having come into existence between the workmen and the management of M/s East India Cotton Manufacturing Co. (P) Ltd., Faridabad, with regard to the demand of workmen for introduction of a gratuity scheme in the said concern, the same was referred for adjudication to this tribunal under clause (d) of sub-section 1 of section 10 of the Industrial Disputes Act, 1947, —vide Haryana Government Notification No. 1D/FD/345F/1824, dated 19th January, 1968. The only item of dispute as mentioned in the said notification is as under:—

“Whether gratuity scheme should be introduced in the factory ? If so with what details and from which date?”

Usual notices were issued to the parties and in response to the same the workmen filed their statement of claims and the management filed their written statement to the same. The pleadings of the parties gave rise to four preliminary issues which really arose out of only one objection that the union at whose instance the reference had been made had no authority to represent the workmen of the concern in question. This preliminary objection was overruled by me, —vide my order dated 6th September, 1968 and the parties were directed to produce their evidence on the issue on merits which was precisely the same as the item of dispute. The parties thereafter led their evidence on merits and their representatives also addressed their arguments to me.

The contention raised by the workmen is that the concern in question is able to bear the burden of the gratuity scheme inasmuch as it is making huge profits for the last several years. My attention has been drawn to the balance sheets produced by the concern for the years 1960 to 1966 (both inclusive). The balance sheets for the year 1960 shows that the concern made a net profit of Rs. 8,907.00 while the balance-sheets for the years 1961 to 1966 show that the concern made profits of Rs. 89,782.00, Rs. 79,710.00, Rs. 42,145.00, Rs. 78,801.00, Rs. 1,20,254.00 and Rs. 87,168.00 respectively in the said years. It is significant that there has not been a single year during the last seven years in which the firm suffered any loss. The balance-sheets further show that the reserves of the concern in question have been rising steadily from year to year. According to the balance sheets the said reserves stand as follows :—

1960.....	Rs. 2,08,000.00
1961.....	Rs. 2,50,000.00
1962.....	Rs. 3,15,000.00
1963.....	Rs. 3,31,000.00
1964.....	Rs. 3,82,000.00
1965.....	Rs. 4,47,000.00
1966.....	Rs. 4,95,000.00

The balance sheets also show that the figures of profits as given above have been taken after providing for depreciation, development rebate and income tax etc. and after paying handsome remuneration to the shareholders of the concern which admittedly is a private limited company with only four or five shareholders. It was conceded by the representative of the management during the course of his arguments that fairly heavy amount of capital has really been invested by the shareholders themselves in the form of loan to the concern and that the shareholders are drawing interest on the said loan. The study of balance sheets makes it clear that the concern in question is financially very sound.

The management have led no evidence to prove the exact amount of burden which the gratuity scheme will place on them. The representative of the management contended before me that it was for the workmen to lead evidence on the said point. I do not agree with this contention. The management is in possession of all the facts and figures and are also in possession of the accounts of the concern and evidently they were in the best position to lead evidence with regard to the burden that the scheme may place on them. It was, however, conceded during the course of arguments that the concern has about 500 to 600 workmen in its employ. All of them, however, will not die or retire in any particular year. It has been repeatedly held by their lordships of the Supreme Court that there are two ways of looking at the matter of financial burden of gratuity scheme. One is to capitalize the burden on the universal basis and that would naturally show theoretically that the burden would be heavy. The other is to look at the scheme with respect to its practical aspect which will show that generally speaking not more than three to four per centum of the employees retire each year. The burden is to be calculated on the basis of such practical approach (See in this connection *Sone Valley Portland Cement Company and its workmen* (1962-11-1 LJ.218)). Applying this test it may be said that 15 to 20 workmen of the concern in question may retire or die in a year. Assuming that all of them have to be paid gratuity up to the maximum level which I propose to put in the scheme, each of them will have about 12 months' basic wages on the average and on a rough basis they may be taken as Rs. 70 per month per workman. This will bring the figure of the burden at the most to a sum of Rs. 14 thousands a year on which income tax is to be deducted and which after deducting the said tax may come to a nominal figure of Rs. 7,000 or Rs. 8,000. I, am, therefore, definitely of the opinion that the concern in question is able to bear the burden of a reasonable gratuity scheme.

The only other contention which the management raised before me was that the management is already giving the benefit of provident fund to its workmen and that the workmen are not entitled to a second retiral benefit by way of gratuity. It is again a well settled proposition that if concern is able to bear the burden of two retiral benefits the mere fact that it is already giving one of them to its workmen does not create any bar in the way of the concern being asked to give the second retiral benefit also. This principle of law has also been settled by Their Lordships of the Supreme Court in a number of cases and more

particularly in the case referred to above. For the reasons given above I am of the view that a gratuity scheme should be introduced in the concern in question and that it should be as follows :—

1. In case of death of an employee while he is in the service of the concern or his becoming incapable of serving any further due to physical disability or mental disability 21 days basic wages for each year of service.

In case of death the gratuity will be payable to the heirs or assignees of the deceased workmen.

2. In case of termination of an employee's service by the concern after he has put in five years service 12 days basic wages for each year of service.
3. No gratuity will be payable to an employee who resigns his job. But if he has served 15 years continuously and is rendered unfit to serve further on account of his old age or protected ill-health, he shall be paid gratuity calculated at the rate of 21 days basic wages for each year of service.
4. No gratuity will be payable to an employee who is dismissed for misconduct.
5. The maximum amount of gratuity payable to an employee shall not exceed 12 months basic wages.

The management is directed to introduce the aforesaid scheme with effect from the date of the publication of this award in the official gazette.

No order as to costs.

The 18th November, 1968

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana.

No. 1237, dated Chandigarh, the 19th November, 1968.

The award is submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal Haryana,
Chandigarh.

The 25th November, 1968

No. 10500-ASOIII-Lab-68, 29272.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/S S.P. Engineering Works, Gurgaon:—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD.

Reference No. 48 of 1968

between

SHRI SAT PAL WORKMAN AND THE MANAGEMENT OF M/S S.P. ENGINEERING WORKS,
GURGAON

Present.—Shri C.B. Kaushik with the Applicant Sh. Sat Pal. Nemo for the management.

AWARD

Shri Sat Pal was in the service of M/s S.P. Engineering Works, Railway Road, Gurgaon, as a Turner, and was getting Rs 170 per mensem. His services were terminated and this gave rise to an Industrial dispute. The President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/RK/35A-68/dated 9th September, 1968.

Whether the termination of services of Shri Sat Pal was justified and in order. If not, to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which the workman filed his statement of claim. Nobody appeared on behalf of the management although a number of opportunities were given to them to appear and file their written statement. Ex-parte proceedings were accordingly taken against the management and the evidence of the workman has been recorded. He has affirmed on oath that he joined the respondent Company in May, 1965 as a Turner on Rs. 170 P.M. and that his services were terminated without giving him any prior notice or an opportunity to show cause on 23rd January, 1968. Under these circumstances

it must be held that the termination of his services was not justified and in order. He is entitled to be reinstated with continuity of services and full back wages.

Dated the 14th September, 1968

P. N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. 1697, dated 25th September, 1968

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 14th September, 1968

P.N. THUKRAL,
Presiding Officer,
Labour Court, Faridabad.

No. S. O. 113/C. A./11/48/S. 5/68.—In exercise of the powers conferred by sub-section (2) of section 5 of the Minimum Wages Act, 1948 (Central Act XI of 1948), the Governor of Haryana, after considering the advice of the committee appointed under clause (a) of sub-section (1) of the said section, hereby revises, with effect from the date of publication of this notification, the minimum rates of wages (all inclusive) fixed in respect of the employment in Electroplating by using Salts of Chromium, Nickle or any other compound and the connected Buffing and Polishing Industry,—*vide* erstwhile Punjab Government notification No. S. O. 300/C. A./11/48/S. 5/64/12105, dated the 15th May, 1964 and to fix the minimum rates of wages in respect of workers for whom no wages were previously fixed under the said notification as follows :—

Serial No.	Category of employees	All inclusive minimum rates of wages per mensem
<i>I—Unskilled</i>		
1.	Peon	Rs 95.00 per month.
2.	Chowkidar	
3.	Helper	
4.	Saw-Dust Drier	
5.	Grease Remover	
6.	Barrel/Tank Loader or un-loader	
<i>II—Semi-skilled 'B'</i>		
1.	Assistant Grinder	Rs 115.00 per month.
2.	Assistant Polisher	
3.	Assistant Electrician	
4.	Viewer	
5.	Laboratory Boy (Matric)	
6.	Cutter	
7.	Brushman	
8.	Solution Checker	
9.	Tank Mistry	
<i>III—Semi skilled 'A'</i>		
1.	Grinder, Grade II	Rs 125.00 per month.
2.	Polisher, Grade II	
3.	Electrician	
4.	Junior Inspector	
5.	Laboratory Assistant	
<i>IV—Skilled</i>		
1.	Grinder, Grade I	Rs 145.00 per month.
2.	Polisher, Grade I	
3.	Foreman (Non-Diploma Holder) both in Grinding & Electroplating	
4.	Senior Inspector	

Serial No.	Category of employees	All inclusive minimum rates of wages per mensem
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V. Highly-skilled

1.	Foreman/Chargeman (Diploma Holder)	} Rs 180.00 per month.
2.	Chemist	

VI—Clerical and General Staff

1.	Clerk (non-Matric)	Rs 115.00 per month.
2.	Clerk (Matric)	Rs 130.00 per month.
3.	Clerk (Graduate)	Rs 140.00 per month.
4.	Accountant (Qualified)	Rs 175.00 per month.
5.	Car/Truck Driver	Rs 140.00 per month.

VII—Learners

Rs 60.00 per month for the first six months, Rs 75.00 per month for the next six months and Rs 95.00 per month for the next six months and thereafter they will cease to be called learners.

R. I. N. AHOOJA, Secy.

LABOUR AND EMPLOYMENT DEPARTMENTS

The 19th November, 1968

No. 6716-2Lab-68/28138.—The Governor of Haryana is pleased to constitute the District Committee of Employment, Karnal, consisting of the following members :—

1.	The Deputy Commissioner, Karnal	Chairman
2.	Shri Hamit Rai, Ashoka Woollen Industries, Panipat	Employer's representative
3.	The Principal, Dayal Singh College, Karnal	Ditto
4.	A representative of National Dairy Research Institute Employees and Workmen Union, Karnal	Workers' representative
5.	A representative of the District Motor Transport Workers Union, Karnal	Ditto
6.	Shri Surjit Singh, M.L.A., Randhir Lane, Karnal	Member
7.	Shri Ishwar Singh, M. L. A., Village & P. O. Kaul, Tehsil Kaithal, District Karnal	Do
8.	The Chairman, Zila Parishad, Karnal	Do
9.	The Sub Divisional Officer (Civil) Panipat	Do
10.	The Secretary, District Sailors Soldiers and Airmen's Board, Karnal	Do
11.	The District Education Officer, Karnal	Do

12. The District Industries Officer, Karnal	Member
13. The Labour Inspector, Sonapat	Do
14. The Principal, Industrial Training Institute, Karnal	Do
15. The District Statistical Officer, Karnal	Do
16. The Executive Engineer, Western Yamunana Canal, Karnal	Do
17. The Director, National Dairy Institute, Karnal or his representative	Do
18. The Registrar, Kurukshetra University, Kurukshetra	Do
19. The District Welfare Officer, District Karnal	Do
20. The District Employment Officer, Karnal	Member-Secretary

2. The object of the Committee would be to advise the District Employment Exchange, Karnal, on problems relating to employment, creating of employment opportunities and the working of the National Employment Service. Its functions would be as follows :-

- (i) to review the employment position and assess employment and unemployment trends and suggest measures for expanding employment opportunities ;
- (ii) to advise on the deployment of National Employment Service ;
- (iii) to advise on deployment of personnel retrenched on the completion of development projects ;
- (iv) to consider special programme relating to educated unemployed ;
- (v) to advise on the developments of the Youth Employment Service and Employment Counselling at Employment Exchanges ;
- (vi) to assess the requirements of trained craftsmen and advise the National Council for Training in Vocational Trades.

3. The term of the office of the members of the Committee would be three years.

4. If a member of the Committee fails to attend two consecutive meetings of the committee without sufficient cause and without previous intimation to the Chairman, he would be liable to be removed by Government. The members are expected to keep all information of confidential nature secret unless authorised to disclose the same to the public.

R. I. N. AHOOJA, Secy.